

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

ALVIN AVON BRAZIEL, JR.,	§	
	§	
Petitioner,	§	
	§	
VS.	§	
	§	No. 3:09-CV-1591-M
RICK THALER, Director	§	
Texas Department of Criminal Justice,	§	(Death Penalty Case)
Correctional Institutions Division	§	
	§	
Respondent.	§	

**ORDER REOPENING PROCEEDINGS
AND DIRECTING SUPPLEMENTAL BRIEFS**


On March 14, 2013, this Court suspended these proceedings (ECF No. 30) pending a decision of the Supreme Court in *Trevino v. Thaler*, No. 11-10189. On Tuesday, May 28, 2013, the Supreme Court issued its decision in *Trevino*, ___ U.S. ___, 2013 WL 2300805, overruling the precedent of the United States Court of Appeals for the Fifth Circuit and holding that the exception to procedural bar created in *Martinez v. Ryan*, 566 U.S. 1 (2012), applies to ineffective-assistance-of-trial-counsel claims presented in the habeas review of convictions and sentences from the state courts of Texas. The Court in *Trevino* also left open the possibility that the state court should now be allowed to decide the merits of such claims “in the first instance.” 2013 WL 2300805, at *11.

Therefore, the stay previously granted is now lifted, and this case is **reopened** as of May 28, 2013, the date of the opinion in *Trevino*. The parties are instructed to file supplemental briefs on or before **Monday, July 1, 2013**, regarding the impact of *Trevino* on this case, including but not limited to the following issues: (1) whether evidentiary development should be allowed by this Court in connection with the *de novo* consideration of any unexhausted claim that may fall

within the exception to procedural bar created in *Martinez*; and (2) whether this Court should further abate these proceedings to allow the petitioner to now present any such claim to the state court in the first instance. No responses or other briefing shall be filed unless permitted by further order of this Court.

IT IS SO ORDERED.

SIGNED May 31, 2013.



PAUL D. STICKNEY
UNITED STATES MAGISTRATE JUDGE